NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

SEP 172021

UNITED STATES OF AMERICA,
Plaintiff-Appellee,
v.
FRANCISCO JAVIER OCHOA-ANAYA,

No. 20-10402
D.C. No.

1:19-cr-00211-DAD-SKO-1

MEMORANDUM* Defendant-Appellant.

Appeal from the United States District Court for the Eastern District of California
Dale A. Drozd, District Judge, Presiding
Submitted September 14, 2021**
Before: PAEZ, NGUYEN, and OWENS, Circuit Judges.
Francisco Javier Ochoa-Anaya appeals from the district court's judgment and challenges the 312-month sentence imposed following his guilty-plea conviction for conspiracy to distribute a controlled substance, in violation of 21
U.S.C. $\S 8441(\mathrm{a})(1),(\mathrm{b})(1)(\mathrm{A})$, and 846 , and possession of firearms in furtherance

[^0]of a drug trafficking crime, in violation of 18 U.S.C. § 924(c)(1). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Ochoa-Anaya contends that his counsel rendered ineffective assistance by failing to challenge adequately his two-level Guidelines enhancement for using a personal relationship to involve another person in drug trafficking, pursuant to U.S.S.G. § 2D1.1(b)(16)(A). We decline to consider this claim on direct appeal because the record is insufficiently developed and it is not obvious that OchoaAnaya was denied his Sixth Amendment right to counsel. See United States $v$. Rahman, 642 F.3d 1257, 1259-60 (9th Cir. 2011). Ochoa-Anaya may raise this claim in a 28 U.S.C. § 2255 proceeding. See id. at 1260.

## AFFIRMED.


[^0]:    This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.
    ** The panel unanimously concludes this case is suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2). Ochoa-Anaya's request for oral argument is, therefore, denied.

